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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,210	01/02/2002	Kiyoko F. Aoki	BDI001	9004
28848	7590	06/03/2004	EXAMINER	
TOPE-MCKAY & ASSOCIATES 23852 PACIFIC COAST HIGHWAY #311 MALIBU, CA 90265			LY, CHEYNE D	
			ART UNIT	PAPER NUMBER
			1631	

DATE MAILED: 06/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

g.m

**Office Action Summary**

Application No.

10/040,210

Applicant(s)

AOKI ET AL.0

Examiner

Cheyne D Ly

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-120 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-120 is/are rejected.
- 7) ☒ Claim(s) 1, 5, 8, 13, 16, 24, 27, 32, 35, 40, 44, 47, 52, 55, 63, 66, 71, 74, 79, 83, 86, 91, 94, 102, 105, 110, 113, 118, and 120 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☒ Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. 09/02/03 09/09/03.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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### **DETAILED ACTION**

1. Applicants' arguments filed March 11, 2004 have been fully considered but they are not deemed to be persuasive. Rejections and/or objections not reiterated from previous office actions are hereby withdrawn. The following rejections and/or objections are either reiterated or newly applied. They constitute the complete set presently being applied to the instant application.

2. Claims 1-120 are examined on the merits.

### **OBJECTIONS**

3. Claims 1, 5, 8, 13, 16, 24, 27, 32, 35, 40, 44, 47, 52, 55, 63, 66, 71, 74, 79, 83, 86, 91, 94, 102, 105, 110, 113, 118, and 120 are objected to because of the following informalities: The claims cited above have improper periods for step designations. Appropriate correction is required.

### **CLAIM REJECTIONS - 35 USC § 102**

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-120 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Schutz et al. (1999).

6. This rejection is maintained with respect to claims 1-120, as recited in the previous office action mailed December 04, 2003.

## **RESPONSE TO ARGUMENTS**

7. It is noted that the instant 35 U.S.C. 102(b) rejection cites Schutz et al. as the primary prior art reference, which discloses Microsoft Excel, and Monsen and Martin et al. as secondary references for showing the inherent features of Microsoft Excel. Applicant presents arguments specifically directed to Schutz et al. which assert that Schutz et al. does not disclose all the limitations of the claimed invention without any regard to the cited secondary references. Even though Applicant has not addressed the cited disclosure of Monsen and Martin et al., Applicant's response is considered to be a bona fide attempt to respond to the Office Action, mailed December 04, 2003. Further, Applicant's arguments specifically directed to Schutz et al. have been fully considered and found to unpersuasive due to the cited disclosure of Monsen and Martin et al. as re-iterated below.

8. Specific to the argument of Schutz et al. does not disclose the limitation of "plotting of proteomic or genomic data after processing by a computer system", Monsen discloses Microsoft Excel having the means of generating a multiple charts from user entered data (user selected partition schemes). One of such chart is a pie chart with slices wherein each slice represents a portion of the overall partition scheme (Pages 134-135).

9. Specific to the argument of Schutz et al. does not disclose the limitations of "plotting...selected partition schemes", "adjust views" corresponding to partition schemes, "allow for analysis of several partitioning schemes and characteristics", or "correlations between characteristics", Martin et al. discloses an intersection operator is used for referring to an intersection point of the two ranges (correlation) (page 281, Reference Operators § and page 293 Implicit Intersection §). User data are display in a spreadsheet (partition schemes)

and the Chart Wizard allows user to create charts (adjust views of a plurality of partition schemes) corresponding the select data with a one key method (pages 448-449, Charting at the Click of a Button §).

#### **REJECTION RE-ITERATED**

10. Schutz et al. discloses a computer apparatus, program product, and method for plotting proteomic and genomic data wherein the apparatus is a PC that runs Microsoft Excel computer product capable of receiving input (nucleic acid sequence) (page 1219, Material and Method §) according to a partition scheme (Figure 2) and output a representation of the partition scheme (Figure 3), as in instant claims 1, 40, 79, and 118-120.

11. It is noted the documents by Monsen and Martin et al. discussed below are not being used as prior art but only to expand on the inherent features of Microsoft Excel as disclosed by Schutz et al. Limitations of the instant claims that are directed to features that are well-known in the art to be routine computing processes will not be cited in this instant rejection.

12. Monsen discloses Microsoft Excel having the means of generating a multiple charts from user entered data (user selected partition schemes). One of such chart is a pie chart with slices wherein each slice represents a portion of the overall partition scheme (Pages 134-135), as in instant claims 2-9, 14, 41-49, 80-87, and 92.

13. Microsoft Excel disclosed by Monsen has the capability to perform common mathematical functions such as subtraction and addition with data represented in the charts; and the underlying data is view in a form of a spreadsheet wherein data is in a form of a list (pages 94-96), as in instant claims 10, 11, 13, 15, 50, 88, 89, 91, and 93.

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14. Martin et al. discloses Microsoft Excel provides a search function where a user may search for a specific piece of data (page 341, Finding a Text String §), as in claims 12, 51, and 90.

15. Martin et al. discloses an intersection operator is used for referring to an intersection point of the two ranges (page 281, Reference Operators § and page 293 Implicit Intersection §). User data are display in a spreadsheet and the Chart Wizard allows user to create charts corresponding the select data with a one key method (pages 448-449, Charting at the Click of a Button), as in instant claim 16-39, 52-78, and 94-117.

### **CONCLUSION**

16. NO CLAIM IS ALLOWED.

17. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

18. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

19. Papers related to this application may be submitted to Technical Center 1600 by facsimile transmission. Papers should be faxed to Technical Center 1600 via the PTO Fax Center

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located in Crystal Mall 1. The faxing of such papers must conform with the notices published in the Official Gazette, 1096 OG 30 (November 15, 1988), 1156 OG 61 (November 16, 1993), and 1157 OG 94 (December 28, 1993) (see 37 CFR § 1.6(d)). The CM1 Fax Center number is (703) 872-9306.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Dune Ly, whose telephone number is (571) 272-0716. The examiner can normally be reached on Monday-Friday from 8 A.M. to 4 P.M.

21. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward, Ph.D., can be reached on (571) 272-0722.

22. Any inquiry of a general nature or relating to the status of this application should be directed to Legal Instruments Examiner, Tina Plunkett, whose telephone number is (571) 272-0549.

C. Dune Ly  
5/27/04

  
ARDIN H. MARSCHEL  
PRIMARY EXAMINER 5/28/04